

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 29653 (Sub-No. 8)

FERROCARRIL MEXICANO, S.A. de C.V.--POOLING OF CAR SERVICE REGARDING
MULTILEVEL CARS

Decided: January 18, 2001

By application filed on September 8, 2000, Ferrocarril Mexicano, S.A. de C.V. (Ferromex), a common carrier engaged in the transportation of property by railroad in Mexico, seeks approval for its participation in the Multi-Level Car Pooling Agreement (Agreement) for the pooling of services related to multilevel cars used to transport motor vehicles and boxcars used to transport automobile parts. Its participation in the Agreement will be limited to international traffic moving between points in Mexico, the United States, and Canada. The Agreement was originally approved by the Board's predecessor, the Interstate Commerce Commission (ICC), in The Baltimore and Ohio Railroad Company, et al.--Pooling of Car Service Regarding Multi-Level Cars, Finance Docket No. 29653 (ICC served Aug. 19, 1981) (Multi-Level Cars).¹

Notice of the filing of the application was served and published in the Federal Register on October 19, 2000, 65 FR 62807. On November 20, 2000, the Automotive Industry Logistics Steering Committee (AILSC)² filed a statement in support of Ferromex's participation in the

¹ The ICC approved amendments to the Agreement authorizing the pooling of railroad services in auto-parts boxcars in The Baltimore and Ohio Railroad Company, et al.--Pooling of Car Service Regarding Multi-Level Cars, Finance Docket No. 29653 (Sub-No. 3) (ICC served May 8, 1986). Other modifications included adding additional carriers to the pool, the most recent of which was the addition of Transportacion Ferroviaria Mexicana in Transportacion Ferroviaria Mexicana--Pooling of Car Service Regarding Multilevel Cars, STB Finance Docket No. 29653 (Sub-No. 7) (STB served Sept. 28, 1999). The most recent amendment to the terms of the Agreement enabled railroads and shippers to obtain and use information that they otherwise would not have, thereby allowing pool members to increase the efficiency of distribution of the multilevel car fleet and minimize unnecessary investment. See The Baltimore and Ohio Railroad Company, et al.--Pooling of Car Service Regarding Multilevel Cars, Finance Docket No. 29653 (Sub-No. 6) (ICC served June 30, 1995).

² AILSC's members are: American Honda Motor Company, Inc.; BMW Manufacturing Corporation; DaimlerChrysler Corporation; Distribution and Auto Service Inc. (for Nissan Motor Corporation in U.S.A.); Ford Motor Company; General Motors Corporation; Hyundai Motor
(continued...)

Agreement. AILSC states that Ferromex's participation in the Agreement will introduce additional competition and will provide incremental rail equipment to the existing pools. Additionally, Ferromex will provide service through five alternative border gateways between the United States and Mexico,³ which will help prevent congestion through the widely used border gateway of Nuevo Laredo, NL/Laredo, TX. No adverse comments were filed to Ferromex's proposed membership in the Agreement.

Under 49 U.S.C. 11322, the Board may approve pooling agreements that are voluntarily entered into by carriers, provided that the pooling or division of traffic, services, or earnings will be in the interest of better service to the public or of economy of operation and will not unreasonably restrain competition. The ICC found that the Agreement is in the interest of better service to the public and economy of operations, and does not unreasonably restrain competition. See Multi-Level Cars, slip op. at 3. The operational efficiencies and economic benefits that will accrue from Ferromex's participation in the pool are in the public interest and should increase rather than reduce competition. Accordingly, Ferromex's application will be granted.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Ferrocarril Mexicano, S.A. de C.V., is authorized to participate in the pooling of multi-level rail car service under the Multi-Level Car Pooling Agreement.
2. This authorization is subject to the continuing right of any interested person to petition for reopening and reconsideration on the ground that the pooling operation has not resulted in better service to the public or achieved economies of operation or that it has unreasonably restrained competition.

²(...continued)

America; Kia Motors America; Mazda North American Operations; Mercedes-Benz USA, Inc.; Mitsubishi Motor Sales of America, Inc.; PROMAX Automotive, Inc. (for American Isuzu Motors, Inc.); Subaru of America, Inc.; Toyota Motor Sales, U.S.A., Inc.; and Volkswagen of America, Inc.

³ The additional gateways are: Mexicali, BA/Calexico, CA; Nogales, SO/Nogales, AZ; Cd. Juarez, CH/El Paso, TX; Ojinaga, CH/Presidio, TX; and Piedras Negras, CO/Eagle Pass, TX.

3. The Board reserves the right to modify this decision by the imposition of additional or different terms or to revoke approval, if that action is shown to be proper.

4. This decision is effective on the date of service.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams
Secretary